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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/533,589	09/25/1995	IGOR PALLEY	30-3744	9539

7590 06/10/2003

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 06/10/2003

*19*

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/533,589	PALLEY ET AL.
	Examiner	Art Unit
	Niki M. Eloshway	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 March 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-117 is/are pending in the application.

4a) Of the above claim(s) 7,39-41,58-73 and 77-117 is/are withdrawn from consideration.

5) Claim(s) 1-6 and 8-36 is/are allowed.

6) Claim(s) 37-, 38, 42-57, 74-76 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

*Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

*Election/Restrictions*

2. Claims 7, 39-41, 58-73 and 77-117 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and/or species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 14.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 37, 38, 42-57 and 74-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks (U.S. 5,249,534) in view of Lewis (U.S. 0,674,009). Sacks discloses the claimed invention except for the first and second strips of material being bands. Sacks teaches a third strip of material which encircles the container, however, the first and second strips of material do not extend to cover the bottom of the container. Lewis teaches that it is known to provide a container, made of three bands, wherein the ends of each of the first and second strips meet to form bands (see elements A, B and C). It would have been obvious to one having ordinary skill in the art at the time the invention was

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made to provide the container of Sacks with the first and second bands forming tubes, as taught by Lewis, in order to protect the entire inner container, including the bottom wall thereof.

Sacks teaches a first band (col. 1 lines 65-68, a second band (col. 1 line 68 to col. 2 line 4) and a third band col. 2 lines 4-7. The third band is considered substantially seamless. The bands of Sacks can be made of SPECTRA, as set forth in col. 1 lines 33-42. This SPECTRA material is the same material used in applicant's invention, and therefore has the same characteristics.

*Allowable Subject Matter*

5. Claims 1-6 and 8-36 are allowed.

*Response to Arguments*

6. Applicants' arguments filed March 12, 2003 have been fully considered but they are not persuasive. Applicants argue that the taped edge of Lewis "fatally flaws the design insofar as blast resistance is concerned and thus, teaches away from Applicants' invention." Regarding claims 37, 38, 42-57 and 74-76, a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). In addition, the Lewis container may be considered blast resistant, since it can contain a blast having a small magnitude.

7. Regarding claim 37, Applicants argue that "neither Sacks' third panel, nor the casing 'A' of Lewis, teaches or suggests a 'band' of material which encircles a blast resistant container to at least partially cover an access opening to the container." The examiner disagrees with this position. The panels of Sacks are modified by Lewis to form bands of material instead of panels. These two modified

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bands would cover every wall of the container, therefore covering the container wall with the access opening. In addition, Lewis teaches a band B which extends over the opening of the container, as shown in figures 1, 5 and 6.

8. Regarding claim 38, Applicants' argue that "Sacks fails to teach or suggest that a panel/'band' slide on the container for any purpose." The two Sacks panels are modified by Lewis to form bands instead of panels. These modified bands of material must be slid onto the container in a manner similar to the way band A of Lewis is slid onto the container.

9. Regarding claim 46, Applicants' argue that "neither Sacks nor Lewis teaches or suggests that at least about 75 weight percent of the fibers should be substantially continuous lengths of fiber that encircle anything." Regarding claims 74-76, Applicants' argue that "neither Sacks nor Lewis teaches or suggests that the strip should comprise a tape of unidirectional high strength fibers or oriented film encircling the container in the hoop direction at least once." The wound third panel of Sacks would inherently satisfy these limitations.

### *Conclusion*

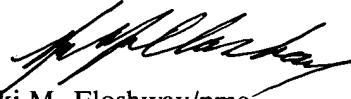
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

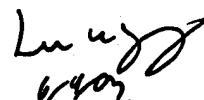
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11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.



Niki M. Eloshway/nme  
Patent Examiner  
June 6, 2003



6/4/03  
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